

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

CHIP RODNEY DANIELS

v.

ALTICE USA, INC., et al.

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CIVIL ACTION NO. 6:18cv360

**ORDER ADOPTING IN PART THE REPORT AND RECOMMENDATION
OF THE UNITED STATES MAGISTRATE JUDGE**

The Report and Recommendation of the Magistrate Judge, which contains her findings, conclusions, and recommendation for the disposition of the complaint has been presented for consideration. The Report and Recommendation (ECF 26), filed on October 25, 2018, recommends that Defendants' Motion to Dismiss (ECF 23) be granted and that the complaint be dismissed with prejudice for lack of subject matter jurisdiction. The Report and Recommendation was mailed to Plaintiff by certified mail. Tracking information reveals that Plaintiff received the Report and Recommendation on October 29, 2018. No written objections have been filed. The Court therefore **ADOPTS IN PART** the findings and conclusions of the Magistrate Judge as those of the Court. Because the Court lacks subject matter jurisdiction, the dismissal of Plaintiff's complaint is without prejudice. *See, e.g., Cox, Cox, Filo, Camel & Wilson, L.L.C. v. Sasol N. Am., Inc.*, 544 F. App'x 455 (5th Cir. 2013).

Accordingly, it is **ORDERED** that Defendants' Motion to Dismiss (ECF 23) is **GRANTED** and the complaint is **DISMISSED** without prejudice for lack of subject matter jurisdiction.

So **ORDERED** and **SIGNED** this **3rd** day of **January, 2019**.



JEREMY D. KERNODLE
UNITED STATES DISTRICT JUDGE